

### **REMARKS**

Claims 1, 18, 25-27 and 30 were pending and were rejected. Claims 1, 18, 26 and 27 are amended and claims 25 and 30 are cancelled. The limitations of cancelled claim 25 have been added to claim 1. No new matter has been added.

Applicant's attorney thanks the Examiner for the phone interview on December 26, 2007. The issues discussed were the fact that the Office Action was prematurely made final and the remaining rejections for obviousness.

Applicant asserts that the Office Action was prematurely made final. Applicant relies on MPEP § 706.07(a), which states that there is an *exception* which prevents the examiner from making a second or subsequent office action final where a new rejection was presented that was not required by the Applicant's amendment. In this case, the Examiner rejected claim 26 under 35 U.S.C. 112, second paragraph as being indefinite for use of the phrase "easily polymerizable substance". This term was not added in the amendment. The term has been present in the claims and this rejection could have been made at an earlier opportunity. Since the rejection fits the exception, it was improper to make the Office Action final. Applicant respectfully requests that the finality be reconsidered and withdrawn.

The Office Action requested remarks by Applicant's attorney concerning review of applicant/assignee patent holdings for other relevant prior art. The request for additional review has been passed on and no other relevant prior art has been reported to this attorney.

#### **35 U.S.C. 112, Second paragraph**

Claims 1, 18, 25-27 and 30 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

The wording that the Examiner found to be unclear has been removed. It is believed that these amendments assure the claims are in satisfaction of the requirements of 35 U.S.C. 112, second paragraph.

#### **35 USC 103**

Claims 1, 5 and 30 were rejected under 35 USC 103(a) as unpatentable over the combined teachings of Deuse (U.S. 4,236,576), or McNeal (U.S. 2,181,704) and Ogata

(U.S. 6,582,667) and optionally further in view of Muri (U.S. 4,562,887). Applicant traverses the rejections and notes that claim 5 was previously cancelled.

The rejection is improper with regard to the Examiner's suggested combination of art which requires modification of the Deuse invention. The Examiner stated that it would have been obvious to have formed either of the upper vent conduits of Deuse as taught by Figs. 3 and 4B of Ogata (conduit 14). However, such a modification would have rendered the Deuse invention unsatisfactory for its intended purpose. Deuse states that the primary character of the invention is to have a thick tube top (sheet) with apertures and recesses *within* the tube top (sheet) accessible from the steam-water space and accessible for cooling water (Col. 2, lines 11-18) to provide additional cooling of the exiting hot substance within the tubes (Col. 1, lines 47-53). Therefore the Examiner's suggested modification, of removing the accessibility to the tube top (sheet) from the steam-water space and instead causing the exit of the cooling fluid and gas below the tube top (sheet) would render the Deuse invention unsatisfactory for its intended purpose. Under MPEP § 2143.01(V), if the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

For this reason, the Examiner's obviousness rejections which rely on the modification of Deuse are not supported by a legally acceptable rationale. Thus there has been no *prima facie* showing of obviousness in the rejections of claims 1, 5 and 30 and further in the rejections of claims 18 and 26-27, which also rely on the modification of Deuse. Applicant respectfully requests that the rejections be reconsidered and withdrawn.

Claims 1, 5 and 30 were also rejected as unpatentable over the combined teachings of McNeal, Ogata and optionally Muri. However these claims have been amended to contain the limitation of cancelled claim 25, so Applicant's rebuttal argument as to these claims is directed to the Examiner's rejection of claim 25 as unpatentable over this combination of references (Office Action page 8).

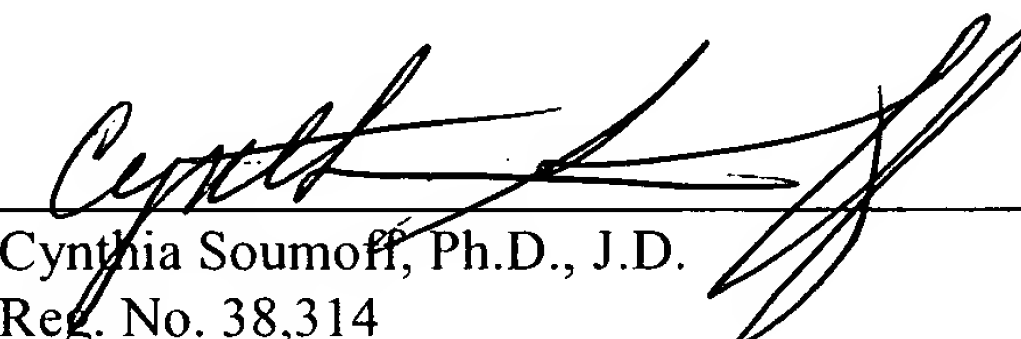
All the claims in this application incorporate the limitation requiring a valve configured to expel the gas, located at the high portion of the pipeline that is in fluid connection with the

vent for the gas, and which is at a level higher than the upper tube sheet. The Examiner relied on valve 61 of McNeal as teaching the valve recited in the claims. However, valve 61 of McNeal is not configured to expel a gas and located on the high portion of a pipeline at a level higher than the upper tube sheet. Therefore, the combination of references fails to teach each of the limitations of the claims. For this reason, Applicant respectfully requests that the rejections be reconsidered and withdrawn.

In view of the foregoing, Applicants submit that all pending claims are in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should he believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,

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Cynthia Soumoff, Ph.D., J.D.  
Reg. No. 38,314  
Attorney for Applicant

MATHEWS, SHEPHERD, McKAY & BRUNEAU, P.A.  
29 Thanet Road, Suite 201  
Princeton, NJ 08540  
Tel: 609 924 8555  
Fax: 609 924 3036